

Senate File 295 - Introduced

SENATE FILE 295
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1146)

A BILL FOR

1 An Act concerning the creation, administration, and termination
2 of adult and minor guardianships and conservatorships.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

MINOR GUARDIANSHIPS

Section 1. Section 232D.103, Code 2023, is amended to read as follows:

232D.103 Jurisdiction.

The juvenile court has exclusive jurisdiction in a guardianship proceeding ~~concerning a minor who is alleged to be in need of a guardianship~~ for appointment of a guardian for a minor and in a proceeding concerning the guardianship of a minor.

Sec. 2. Section 232D.301, subsection 4, Code 2023, is amended to read as follows:

4. The petition shall state whether a limited guardianship is appropriate, and whether a conservatorship for the minor is already in existence.

Sec. 3. Section 232D.302, subsection 2, Code 2023, is amended to read as follows:

2. Notice shall be served upon the minor's known parents listed in the petition in accordance with the rules of civil procedure. If the parent has not filed a consent to the appointment of a guardian, the notice shall inform any parent named in the petition that the parent may be entitled to representation under the conditions described in section 232D.304.

Sec. 4. Section 232D.305, subsection 1, Code 2023, is amended to read as follows:

1. The court may appoint a court visitor for the minor in a proceeding for the appointment of a guardian for a minor.

Sec. 5. Section 232D.305, Code 2023, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The court may order a court visitor to continue to serve if the court determines continued service would be in the best interest of the minor. If the court continues the services of the court visitor, the court may limit the direct duties of the court visitor as the court deems

1 necessary in which case the court visitor shall thereafter
2 continue to serve until discharged by the court. If the
3 court does not order the court visitor to continue, the order
4 appointing the guardian shall discharge the court visitor.

5 Sec. 6. Section 232D.306, Code 2023, is amended by adding
6 the following new subsection:

7 NEW SUBSECTION. 4. A hearing on the petition may be
8 recorded if a court reporter is not used.

9 Sec. 7. Section 232D.309, Code 2023, is amended by adding
10 the following new subsections:

11 NEW SUBSECTION. 8. The court may order an extension of
12 the temporary guardianship for thirty days for good cause
13 shown, including a showing that a hearing on a petition for a
14 guardianship under section 232D.301 cannot be scheduled within
15 thirty days after the order for a temporary guardianship is
16 issued. Prior to or contemporaneously with the filing for an
17 application for the extension of time, the guardian shall file
18 a report with the court setting forth all of the following:

19 a. All actions conducted by the guardian on behalf of the
20 minor from the time of the initial appointment of the guardian
21 up to the time of the report.

22 b. All actions that the guardian plans to conduct on behalf
23 of the minor during the thirty-day extension period.

24 NEW SUBSECTION. 9. The temporary guardian shall submit any
25 other report the court requires.

26 Sec. 8. Section 232D.401, subsection 3, unnumbered
27 paragraph 1, Code 2023, is amended to read as follows:

28 An order by the court appointing a guardian for a minor shall
29 state the powers granted to the guardian until such time as the
30 guardian files an initial care plan and such plan is approved
31 by the court as required by section 232D.501, subsection 4.
32 Except as otherwise limited by ~~court~~ an order appointing a
33 guardian for a minor, the court may grant the guardian the
34 following powers, ~~which may be exercised without prior court~~
35 ~~approval~~:

1 Sec. 9. Section 232D.501, subsection 1, paragraph a, Code
2 2023, is amended by adding the following new subparagraph:

3 NEW SUBPARAGRAPH. (03) The guardian's plan, if any, for
4 applying for and receiving funds and benefits payable for the
5 support of the minor.

6 Sec. 10. Section 232D.501, subsection 1, paragraph b, Code
7 2023, is amended by adding the following new subparagraphs:

8 NEW SUBPARAGRAPH. (11) The results of the guardian's
9 efforts to apply for funds or benefits for the minor, and
10 an accounting for the use of such funds or benefits by the
11 guardian.

12 NEW SUBPARAGRAPH. (12) Any other information the guardian
13 deems necessary for the court to consider.

14 Sec. 11. NEW SECTION. 232D.501A **Delinquent plans or**
15 **reports.**

16 1. On June 1 and December 1 of each year, the clerk shall
17 notify the fiduciary and the fiduciary's attorney of any
18 delinquent plans or reports due by law in any pending minor
19 guardianship, and that unless such delinquent plan or report
20 is filed within sixty days thereafter, the matter shall be
21 reported to the presiding judge. If the delinquent plan or
22 report is not filed within the time so specified, the fiduciary
23 will be subject to removal under the provisions of section
24 232D.502.

25 2. On August 1 and February 1 of each year, the clerk shall
26 report to the presiding judge all delinquent plans or reports
27 in minor guardianships on which such notice has been given and
28 no plan or report has been filed in response to the notice.

29 DIVISION II

30 ADULT GUARDIANSHIPS AND MINOR AND ADULT CONSERVATORSHIPS

31 Sec. 12. Section 235B.6, subsection 2, paragraph d, Code
32 2023, is amended by adding the following new subparagraph:

33 NEW SUBPARAGRAPH. (7) To a district court conducting
34 checks of the dependent adult abuse registry for all proposed
35 guardians and conservators pursuant to section 633.564.

1 Sec. 13. Section 633.556, subsection 4, Code 2023, is
2 amended to read as follows:

3 4. The petition shall list the name and address of the
4 respondent and petitioner, and the petitioner's relationship
5 to the respondent.

6 Sec. 14. Section 633.556, subsection 8, Code 2023, is
7 amended by striking the subsection.

8 Sec. 15. Section 633.560, subsection 3, Code 2023, is
9 amended to read as follows:

10 3. The court shall require the proposed guardian or
11 conservator to attend the hearing on the petition but the court
12 may excuse the proposed guardian's or conservator's attendance
13 for good cause shown.

14 Sec. 16. Section 633.560, subsection 6, Code 2023, is
15 amended by striking the subsection and inserting in lieu
16 thereof the following:

17 6. The hearing may be recorded if a court reporter is not
18 used.

19 Sec. 17. Section 633.562, Code 2023, is amended by adding
20 the following new subsection:

21 NEW SUBSECTION. 7. A court visitor shall be discharged
22 from all further duties upon appointment of a guardian or
23 conservator unless otherwise ordered by the court. The court
24 may order a court visitor to continue to serve if the court
25 determines continued service would be in the best interest of
26 the protected person. If the court continues the service of
27 the court visitor, the court may limit the direct duties of the
28 court visitor as the court deems necessary. The court visitor
29 shall thereafter continue to serve until discharged by the
30 court.

31 Sec. 18. Section 633.564, subsection 1, Code 2023, is
32 amended to read as follows:

33 1. The court shall request criminal record checks and
34 checks of the child abuse, dependent adult abuse, and sexual
35 offender registries in this state for all proposed guardians

1 and conservators, other than financial institutions with Iowa
2 trust powers, unless a proposed guardian or conservator has
3 undergone the background check required by this section within
4 the twelve months prior to the filing of a petition and the
5 background check has been provided to the court.

6 Sec. 19. Section 633.569, subsections 1, 2, and 3, Code
7 2023, are amended to read as follows:

8 1. A person authorized to file a petition under section
9 ~~633.552, 633.553, or 633.554~~ 633.556 or 633.557 may file an
10 application for the emergency appointment of a temporary
11 guardian or conservator.

12 2. Such application shall state all of the following:

13 a. The name and address of the respondent.

14 b. The name and address of the petitioner and the
15 petitioner's relationship to the respondent.

16 ~~b.~~ c. The name and address of the proposed guardian or
17 conservator and the reason the proposed guardian or conservator
18 should be selected.

19 d. The names and addresses, to the extent known, of any
20 other persons who must be named in the petition for the
21 appointment of a guardian or conservator under section 633.556
22 or 633.557.

23 ~~e.~~ e. The reason the emergency appointment of a temporary
24 guardian or conservator is sought.

25 3. The court may enter an ex parte order appointing a
26 temporary guardian or conservator on an emergency basis under
27 this section if the court finds that all of the following
28 conditions are met:

29 a. There is not sufficient time to file a petition and hold
30 a hearing pursuant to ~~section 633.552, 633.553, or 633.554~~
31 633.556, 633.557, or 633.560.

32 b. The appointment of a temporary guardian or conservator
33 is necessary to avoid immediate or irreparable harm to the
34 respondent before a hearing with notice to the respondent can
35 be held.

1 c. There is reason to believe that the basis for appointment
2 of guardian or conservator exists under [section 633.552](#),
3 [633.553](#), or [633.554](#) [633.556](#) or [633.557](#).

4 Sec. 20. Section 633.569, Code 2023, is amended by adding
5 the following new subsections:

6 NEW SUBSECTION. 8. The court may order an extension of
7 the temporary guardianship or conservatorship for thirty days
8 for good cause shown, including a showing that a hearing on a
9 petition for a guardianship or conservatorship under section
10 633.556 or 633.557 cannot be scheduled within thirty days after
11 the order for a temporary guardianship or conservatorship is
12 issued. Prior to or contemporaneously with the filing for
13 an application for the extension of time, the guardian or
14 conservator shall file a report with the court setting forth
15 all of the following:

16 a. All actions conducted by the guardian or conservator on
17 behalf of the protected person from the time of the initial
18 appointment of the guardian up to the time of the report.

19 b. All actions that the guardian or conservator plans to
20 conduct on behalf of the protected person during the thirty-day
21 extension period.

22 NEW SUBSECTION. 9. The temporary guardian or conservator
23 shall submit any other report the court requires.

24 Sec. 21. Section 633.570, subsections 1 and 2, Code 2023,
25 are amended to read as follows:

26 1. In a proceeding for the appointment of a guardian, the
27 respondent shall be given written notice which advises the
28 respondent of the powers that the court may grant a guardian
29 ~~may exercise without court approval pursuant to the powers set~~
30 out in [section 633.635, subsection 2](#), and the powers that the
31 ~~guardian may exercise only with court approval pursuant to set~~
32 out in [section 633.635, subsection 3](#).

33 2. In a proceeding for the appointment of a conservator,
34 the respondent shall be given written notice which advises the
35 respondent of the powers that the court may grant a conservator

1 ~~may exercise without court approval pursuant to section 633.646~~
2 ~~and the powers that the conservator may exercise only with~~
3 ~~court approval pursuant to section 633.647 the powers set out~~
4 ~~in section 633.642.~~

5 Sec. 22. Section 633.635, subsection 1, Code 2023, is
6 amended to read as follows:

7 1. The order by the court appointing a guardian shall state
8 the factual basis for the guardianship pursuant to section
9 633.552 and the date on which the first reporting period for
10 the guardianship shall end.

11 Sec. 23. Section 633.635, subsection 2, unnumbered
12 paragraph 1, Code 2023, is amended to read as follows:

13 ~~Based upon the evidence produced at the hearing~~ An order by
14 the court appointing a guardian for an adult shall state the
15 powers granted to the guardian until such time as the guardian
16 files an initial care plan and such plan is approved by the
17 court as required by section 633.669. Except as otherwise
18 limited by an order appointing a guardian for an adult, the
19 court may grant a guardian the following powers and duties with
20 respect to a protected person which may be exercised without
21 prior court approval:

22 Sec. 24. Section 633.635, subsection 3, unnumbered
23 paragraph 1, Code 2023, is amended to read as follows:

24 A Notwithstanding subsection 2, a guardian may be granted
25 the following powers which may only be exercised upon court
26 approval:

27 Sec. 25. Section 633.641, subsection 3, Code 2023, is
28 amended to read as follows:

29 3. If a protected person has executed a valid power of
30 attorney under chapter 633B, the conservator shall act in
31 accordance with the applicable provisions of ~~chapter 633B~~
32 section 633B.108.

33 Sec. 26. Section 633.642, Code 2023, is amended by striking
34 the section and inserting in lieu thereof the following:

35 **633.642 Powers of conservator.**

1 1. An order by the court appointing a conservator shall
2 state the basis for the conservatorship pursuant to section
3 633.553 or section 633.554.

4 2. Upon appointment by the court, and until such time as the
5 conservator files an initial financial management plan and such
6 plan is approved by the court as required by section 633.670,
7 subsection 1, a conservator has the authority to exercise all
8 powers applicable to fiduciaries pursuant to sections 633.63
9 through 633.162, unless expressly modified by the court.

10 3. In the order approving an initial financial management
11 plan or an annual report, the court shall approve and set forth
12 the specific powers of a conservator, which may be thereafter
13 exercised by the conservator until further court order.

14 4. Upon the filing of an appropriate oath by the
15 conservator, the clerk of court shall issue letters of
16 appointment. A copy of the initial order of the court shall
17 be attached to the letters of appointment. Upon approval of
18 an initial financial management plan, approval of an annual
19 report, or further order of the court granting, modifying,
20 limiting, or terminating powers of the conservator, the clerk
21 of court shall issue new letters of appointment which shall
22 reflect all powers thereafter held by the conservator.

23 Sec. 27. Section 633.669, subsection 1, Code 2023, is
24 amended to read as follows:

25 1. A guardian appointed by the court under [this chapter](#)
26 shall file with the court the following ~~written~~ verified
27 reports which shall not be waived by the court:

28 a. The reports must be based on the needs of the protected
29 person and take into account the best interest of the protected
30 person as well as the protected person's preference, values,
31 and prior directions to the extent known to, or reasonably
32 ascertainable by, the guardian.

33 ~~a.~~ b. An initial care plan filed within sixty days of
34 appointment. The information in the initial care plan shall
35 include but not be limited to the following information:

1 (1) The current residence of the protected person and the
2 guardian's plan for the protected person's living arrangements.

3 (2) The guardian's plan for payment of the protected
4 person's living expenses and other expenses.

5 (3) ~~The~~ If applicable, the protected person's health status
6 and health care needs, and the guardian's plan for meeting the
7 protected person's needs for medical, dental, and other health
8 care needs.

9 (4) Whether the protected person has a living will or health
10 care power of attorney.

11 ~~(4)~~ (5) If applicable, the guardian's plan for other
12 professional services needed by the protected person.

13 ~~(5)~~ (6) If applicable, the guardian's plan for meeting the
14 educational, training, and vocational needs of the protected
15 person.

16 ~~(6)~~ (7) If applicable, the guardian's plan for facilitating
17 the participation of the protected person in social activities.

18 ~~(7)~~ (8) The guardian's plan for facilitating contacts
19 between the protected person and the protected person's family
20 members and other ~~significant~~ persons significant in the life
21 of the protected person.

22 ~~(8)~~ (9) The guardian's plan for contact with, and
23 activities on behalf of, the protected person.

24 (10) The powers that the guardian requests to carry out the
25 initial care plan.

26 ~~b.~~ c. An annual report, filed within sixty days of the
27 close of the reporting period, unless the court otherwise
28 orders on good cause shown. The information in the annual
29 report shall include but not be limited to the following
30 information:

31 (1) The current living arrangements of the protected
32 person.

33 (2) The sources of payment for the protected person's living
34 expenses and other expenses.

35 (3) A description, if applicable, of the following:

1 (a) The protected person's physical and mental health
2 status and the health services including medical, dental, and
3 other professional services provided to the protected person.

4 (b) ~~If applicable, the~~ The protected person's employment
5 status and the educational, training, and vocational services
6 provided to the protected person.

7 (c) The guardian's facilitation of the participation of the
8 protected person in social activities.

9 ~~{e}~~ (d) The contact of the protected person with family
10 members and other significant persons.

11 ~~{d}~~ (e) The nature and extent of the guardian's visits
12 with, and activities on behalf of, the protected person.

13 (4) The guardian's changes to the care plan for the
14 protected person for the next annual reporting period.

15 (5) The powers that the guardian requests to carry out
16 the care plan for the protected person for the next annual
17 reporting period.

18 ~~{4}~~ (6) The guardian's recommendation as to the need for
19 continuation of the guardianship.

20 ~~{5}~~ (7) The ability of the guardian to continue as
21 guardian.

22 ~~{6}~~ (8) The need of the guardian for assistance in
23 providing or arranging for the provision of the care and
24 protection of the protected person.

25 ~~e.~~ d. A final report within thirty days of the termination
26 of the guardianship under [section 633.675](#) unless that time is
27 extended by the court.

28 Sec. 28. Section 633.669, Code 2023, is amended by adding
29 the following new subsection:

30 NEW SUBSECTION. 5. If the court finds that there are
31 reasonable grounds to believe that the guardian has committed
32 the offense of older individual assault under section
33 708.2D, theft against an older individual under section
34 714.2A, consumer fraud against an older individual under
35 section 714.16A, elder abuse under section 726.24, financial

1 exploitation of an older individual under section 726.25,
2 or dependent adult abuse under section 726.26, the court
3 shall refer the matter to the appropriate county attorney for
4 consideration of the initiation of criminal charges.

5 Sec. 29. Section 633.670, Code 2023, is amended by striking
6 the section and inserting in lieu thereof the following:

7 **633.670 Reports by conservators.**

8 1. A conservator shall file a verified initial financial
9 management plan for protecting, managing, investing, expending,
10 and distributing the assets of the conservatorship estate
11 within ninety days after appointment, which shall not be waived
12 by the court.

13 a. The plan must be based on the needs of the protected
14 person and take into account the best interest of the protected
15 person as well as the protected person's preference, values,
16 and prior directions to the extent known to, or reasonably
17 ascertainable by, the conservator.

18 b. The plan must provide the protected person's age,
19 residence, living arrangements, and sources of payment for
20 living expenses.

21 c. When the conservator files the plan, the conservator
22 shall file, if applicable, the protected person's will with the
23 court clerk and the protected person's prepaid burial trust and
24 powers of attorney shall be described.

25 d. The plan must include a proposed budget for the protected
26 person and budget-related information for the next annual
27 reporting period including the following:

28 (1) The protected person's receipts and income and
29 the projected sources of income including, if applicable,
30 wages, social security income, pension and retirement plan
31 distribution, veterans' benefits, rental income, interest
32 earnings, and dividends, and the total estimated receipts and
33 income.

34 (2) The protected person's liabilities and debts including,
35 if applicable, mortgage, car loans, credit card debt, federal,

1 state, and property taxes owed, and the total estimated
2 liabilities and debts; a list and concise explanation of
3 any liability or debt owed by the protected person to the
4 conservator; and a list and concise explanation of the
5 liability of any other person for a liability of the protected
6 person.

7 (3) The protected person's estimated expenses on a monthly
8 and annual basis including, if applicable, nursing home or
9 facility charge, expenses for residence, food and household
10 expenses, utilities, household help and caregiver expenses,
11 health services and health insurance expenses, educational and
12 vocational expenses, personal auto and other transportation
13 expenses, clothing expenses, personal allowance and other
14 personal expenses, liabilities and debts, attorney fees and
15 other professional expenses, conservator fees, and other
16 administrative expenses.

17 e. The plan must include a list of the protected person's
18 assets and the conservator's plan for management of these
19 assets including, if applicable, financial accounts including
20 checking and certificates of deposit and cash, investments
21 including stocks, bonds, mutual funds, exchange-traded funds,
22 individual retirement accounts and other investment accounts,
23 pension, profit-sharing, annuities, and retirement funds,
24 personal property including household goods and vehicles,
25 receivables including mortgages and liens payable to the
26 protected person's estate or trust, life insurance, and other
27 property.

28 f. The plan must include the authority that the conservator
29 requests to carry out the plan in accordance with the proposed
30 budget for the protected person and the plan for the management
31 of the property of the protected person for the next annual
32 reporting period.

33 g. The conservator shall provide notice of the filing of
34 the plan and a copy of the plan to the protected person, the
35 protected person's attorney, if any, and court visitor, if any,

1 and others as directed by the court. The notice must state
2 that any person entitled to a copy of the plan must file any
3 objections to the plan not later than twenty days from the date
4 of mailing notice of filing the initial plan.

5 *h.* At least twenty days after the plan has been filed, the
6 court shall review and determine whether the plan should be
7 approved or revised, after considering objections filed and
8 whether the plan is consistent with the conservator's powers
9 and duties.

10 *i.* After approval by the court, the conservator shall
11 provide a copy of the approved plan and order approving the
12 plan to the protected person, the protected person's attorney,
13 if any, and court visitor, if any, and others as directed by
14 the court.

15 2. A conservator shall attach to the initial financial
16 management plan an inventory of the protected person's assets
17 within ninety days after appointment which includes an oath
18 or affirmation that the inventory is believed to be complete
19 and accurate as far as information permits. The conservator
20 shall provide copies of the inventory to the protected person,
21 the protected person's attorney, if any, and court visitor, if
22 any, and others as directed by the court. Any objections to
23 the inventory shall be filed in the same manner and according
24 to the same schedule as objections to the initial financial
25 management plan. The court shall review the inventory and
26 determine whether the inventory should be approved at the same
27 time as the court reviews the initial financial management
28 plan. When the conservator receives an additional property
29 of the protected person, or becomes aware of its existence,
30 a description of the property shall be included in the
31 conservator's next annual report.

32 3. A conservator shall file a verified report on an annual
33 basis for the period since the end of the preceding report
34 period, which shall not be waived by the court.

35 *a.* The annual report must provide the age, the residence,

1 the living arrangements of the protected person, and sources of
2 payment for the protected person's living expenses during the
3 reporting period.

4 *b.* The annual report must include the following income and
5 expenditure information:

6 (1) If applicable, all income or funds received by the
7 conservator on behalf of the protected person including the
8 items specified in subsection 1, paragraph "d", subparagraph
9 (1).

10 (2) If applicable, all expenditures made by the conservator
11 on behalf of the protected person including the items,
12 if applicable, specified in subsection 1, paragraph "d",
13 subparagraph (3). If any of the expenditures were made
14 to provide support for or pay the debts of another person,
15 the annual report shall include an explanation of these
16 expenditures. If any of the expenditures were made to pay
17 any liability or debt owed by the protected person to the
18 conservator, the annual report shall include an explanation of
19 these expenditures. If any of the expenditures were made to
20 pay any liability or debt that is also owed by another person
21 or entity, the annual report shall include an explanation of
22 these expenditures. If any of the expenditures were paid
23 with the use of cash or withdrawal of cash from an account
24 of the protected person, the annual report shall include an
25 explanation of the use of cash or withdrawal of cash.

26 *c.* The annual report shall include a proposed budget and
27 budget-related information for the next reporting period
28 containing the information specified in subsection 1, paragraph
29 "d", and a request for approval of the proposed budget and
30 authority to make expenditures in accordance with the proposed
31 budget.

32 *d.* The annual report must include a proposed plan for
33 management of the assets of the protected person for the next
34 reporting period and a request for approval of the proposed
35 plan for management of the assets of the protected person and

1 the authority to carry out the plan.

2 e. The conservator may request court approval of fees
3 provided by an attorney on behalf of the conservatorship or the
4 protected person during the preceding reporting period.

5 f. The conservator may request court approval of fees
6 provided to the conservator on behalf of the conservatorship or
7 the protected person during the preceding reporting period.

8 4. The conservator shall file a verified final report with
9 the court as follows:

10 a. Within thirty days following removal of the conservator.

11 b. Upon the conservator's filing of a resignation and before
12 the resignation is accepted by the court.

13 c. Within sixty days following the termination of the
14 conservatorship.

15 d. Any other time as ordered by the court.

16 5. Reports required by this section shall be provided to the
17 veterans administration if the protected person is receiving
18 veterans' benefits.

19 6. If the court finds that there are reasonable grounds to
20 believe that the conservator has committed the offense of theft
21 against an older individual under section 714.2A, consumer
22 fraud against an older individual under section 714.16A, elder
23 abuse under section 726.16A, financial exploitation of an older
24 individual under section 726.25, or dependent adult abuse
25 under section 726.26, the court shall refer the matter to the
26 appropriate county attorney for consideration of the initiation
27 of criminal charges.

28 Sec. 30. Section 633.675, subsections 2 and 3, Code 2023,
29 are amended to read as follows:

30 2. The court shall terminate a guardianship if it finds ~~by~~
31 ~~clear and convincing evidence~~ that the basis for appointing a
32 guardian pursuant to [section 633.552](#) has not been established.

33 3. The court shall terminate a conservatorship if the court
34 finds ~~by clear and convincing evidence~~ that the basis for
35 appointing a conservator pursuant to [section 633.553](#) or [633.554](#)

1 is not satisfied.

2 DIVISION III

3 CONFORMING CHANGES

4 Sec. 31. Section 10.1, subsection 7, Code 2023, is amended
5 to read as follows:

6 7. "*Farm estate*" means the real and personal property of a
7 decedent, a ward protected person, or a trust as provided in
8 chapters 633 and 633A, if at least sixty percent of the gross
9 receipts from the estate comes from farming.

10 Sec. 32. Section 217.40, Code 2023, is amended to read as
11 follows:

12 **217.40 Training for guardians and conservators.**

13 The department of human services, or a person designated
14 by the director, shall establish training programs designed
15 to assist all duly appointed guardians and conservators in
16 understanding their fiduciary duties and liabilities, the
17 special needs of the ward protected person, and how to best
18 serve the ward protected person and the ward's protected
19 person's interests.

20 Sec. 33. Section 231E.2, subsection 2, paragraph b, Code
21 2023, is amended to read as follows:

22 b. It is also the intent of the general assembly that the
23 state office of public guardian provide assistance to both
24 public and private guardians, conservators, and representative
25 payees throughout the state in securing necessary services
26 for their wards protected persons and clients, and to assist
27 guardians, conservators, representative payees, wards protected
28 persons, clients, courts, and attorneys in the orderly and
29 expeditious handling of guardianship, conservatorship, and
30 representative payee proceedings.

31 Sec. 34. Section 231E.3, subsection 17, Code 2023, is
32 amended to read as follows:

33 17. "~~Ward~~" "Protected person" means the individual for whom
34 a guardianship or conservatorship is established.

35 Sec. 35. Section 231E.4, subsection 3, paragraphs f and h,

1 Code 2023, are amended to read as follows:

2 *f.* Develop and maintain a current listing of public and
3 private services and programs available to assist ~~wards~~
4 protected persons and clients, and their families, and
5 establish and maintain relationships with public and private
6 entities to assure the availability of effective guardianship,
7 conservatorship, and representative payee services for ~~wards~~
8 protected persons and clients.

9 *h.* Maintain statistical data on the local offices including
10 various methods of funding, the types of services provided, and
11 the demographics of the ~~wards~~ protected persons and clients,
12 and report to the general assembly on or before November
13 1, annually, regarding the local offices and recommend any
14 appropriate legislative action.

15 Sec. 36. Section 231E.4, subsection 6, paragraph e, Code
16 2023, is amended to read as follows:

17 *e.* A fee schedule. The department may establish by
18 rule a schedule of reasonable fees for the costs of public
19 guardianship services provided under [this chapter](#). The fee
20 schedule established may be based upon the ability of the ~~ward~~
21 protected person or client to pay for the services but shall
22 not exceed the actual cost of providing the services. The
23 state office or a local office may waive collection of a fee
24 upon a finding that collection is not economically feasible.
25 The rules may provide that the state office or a local office
26 may investigate the financial status of a ~~ward~~ protected person
27 or client that requests guardianship, conservatorship, or
28 representative payee services or for whom the state public
29 guardian or a local public guardian has been appointed for
30 the purpose of determining the fee to be charged by requiring
31 the ~~ward~~ protected person or client to provide any written
32 authorizations necessary to provide access to records of
33 public or private sources, otherwise confidential, needed to
34 evaluate the individual's financial eligibility. The rules
35 may also provide that the state public guardian or a local

1 public guardian may, upon request and without payment of fees
2 otherwise required by law, obtain information necessary to
3 evaluate the individual's financial eligibility from any office
4 of the state or of a political subdivision or agency of the
5 state that possesses public records.

6 Sec. 37. Section 231E.5, subsection 2, paragraph g,
7 unnumbered paragraph 1, Code 2023, is amended to read as
8 follows:

9 With regard to a proposed ~~ward~~ protected person, the local
10 office shall do all of the following:

11 Sec. 38. Section 231E.5, subsection 2, paragraph g,
12 subparagraphs (2), (3), and (4), Code 2023, are amended to read
13 as follows:

14 (2) Determine whether the needs of the proposed ~~ward~~
15 protected person require the appointment of a guardian or
16 conservator.

17 (3) Assess the financial resources of the proposed ~~ward~~
18 protected person based on the information supplied to the local
19 office at the time of the determination.

20 (4) Inquire and, if appropriate, search to determine
21 whether any other person may be willing and able to serve as
22 the proposed ~~ward's~~ protected person's guardian or conservator.

23 Sec. 39. Section 231E.6, subsection 1, unnumbered paragraph
24 1, Code 2023, is amended to read as follows:

25 The court may appoint on its own motion or upon petition of
26 any person, the state office or a local office, to serve as
27 guardian or conservator for any proposed ~~ward~~ protected person
28 in cases in which the court determines that the proceeding
29 will establish the least restrictive form of guardianship
30 or conservatorship services suitable for the proposed ~~ward~~
31 protected person and if the proposed ~~ward~~ protected person
32 meets all of the following criteria:

33 Sec. 40. Section 231E.7, subsection 3, Code 2023, is amended
34 to read as follows:

35 3. The best interests of the ~~ward~~ protected person require

1 the intervention.

2 Sec. 41. Section 231E.8, subsections 2, 3, and 4, Code 2023,
3 are amended to read as follows:

4 2. The state office or local office shall maintain
5 reasonable personal contact with each ~~ward~~ protected person or
6 client for whom the state office or local office is appointed
7 or designated in order to monitor the ~~ward's~~ protected person's
8 or client's care and progress.

9 3. Notwithstanding any provision of law to the contrary,
10 the state office or local office appointed by the court may
11 access all confidential records concerning the ~~ward~~ protected
12 person for whom the state office or local office is appointed
13 or designated, including medical records and abuse reports.

14 4. In any proceeding in which the state or a local office is
15 appointed or is acting as guardian or conservator, the court
16 shall waive court costs or filing fees, if the state office
17 or local office certifies to the court that the state office
18 or local office has waived its fees in their entirety based
19 upon the ability of the ~~ward~~ protected person to pay for the
20 services of the state office or local office.

21 Sec. 42. Section 231E.8, subsection 6, paragraphs a, b, c,
22 and d, Code 2023, are amended to read as follows:

23 a. The ~~ward~~ protected person displays assaultive or
24 aggressive behavior that causes the public guardian to fear for
25 their personal safety.

26 b. The ~~ward~~ protected person refuses the services of the
27 public guardian.

28 c. The ~~ward~~ protected person refuses to have contact with
29 the public guardian.

30 d. The ~~ward~~ protected person moves out of Iowa.

31 Sec. 43. Section 252C.2, subsection 3, Code 2023, is amended
32 to read as follows:

33 3. The provision of child support collection or paternity
34 determination services under [chapter 252B](#) to an individual,
35 even though the individual is ineligible for public assistance,

1 creates a support debt due and owing to the individual or the
 2 individual's child or ~~ward~~ protected person by the responsible
 3 person in the amount of a support obligation established by
 4 court order or by the administrator. The administrator may
 5 establish a support debt in favor of the individual or the
 6 individual's child or ~~ward~~ protected person and against the
 7 responsible person, both as to amounts accrued and accruing,
 8 pursuant to [section 598.21B](#).

9 Sec. 44. Section 282.2, Code 2023, is amended to read as
 10 follows:

11 **282.2 Offsetting tax.**

12 The parent or guardian whose child or ~~ward~~ protected person
 13 attends school in a district of which the parent or guardian is
 14 not a resident shall be allowed to deduct the amount of school
 15 tax paid by the parent or guardian in said district from the
 16 amount of tuition required to be paid.

17 Sec. 45. Section 321.198, subsection 2, Code 2023, is
 18 amended to read as follows:

19 2. The provisions of [this section](#) shall also apply to the
 20 spouse and children, or ~~ward~~ protected person, of military
 21 personnel when such spouse, children, or ~~ward~~ protected person
 22 are living with the military personnel described in subsection
 23 1 outside of the state of Iowa and provided that such extension
 24 of license does not exceed five years.

25 Sec. 46. Section 321.219, subsection 1, Code 2023, is
 26 amended to read as follows:

27 1. A person shall not cause or knowingly permit the person's
 28 child or ~~ward~~ protected person under the age of eighteen years
 29 to drive a motor vehicle upon any highway when the minor is not
 30 authorized under [this chapter](#).

31 Sec. 47. Section 563.12, Code 2023, is amended to read as
 32 follows:

33 **563.12 Special agreements — evidence.**

34 This chapter shall not prevent adjoining proprietors from
 35 entering into special agreements about walls on the lines

1 between them, but no evidence thereof shall be competent unless
 2 in writing, signed by the parties thereto or their lawfully
 3 authorized agents, or the guardian of either, if a minor,
 4 who shall have full authority to act for the guardian's ~~ward~~
 5 protected person in all matters relating to walls in common
 6 without an order of court therefor.

7 Sec. 48. Section 587.4, Code 2023, is amended to read as
 8 follows:

9 **587.4 Decrees for sale of real estate by guardian.**

10 In all cases where decrees and orders of court have been
 11 obtained for the sale of real estate by a guardian prior to
 12 January 1, 1969, where the original notice shows that service
 13 of notice pertaining to the sale of such real estate was made
 14 on the minor or ~~ward~~ protected person outside of the state
 15 of Iowa, such services of notices are hereby legalized. All
 16 decrees so obtained as aforesaid are hereby legalized and held
 17 to have the same force and effect as though the service of such
 18 original notice had been made on the minor or ~~ward~~ protected
 19 person within the state of Iowa.

20 Sec. 49. Section 595.3, subsection 5, Code 2023, is amended
 21 to read as follows:

22 5. Where either party is a ~~ward~~ protected person under
 23 a guardianship and the court has made a finding that the
 24 ~~ward~~ protected person lacks the capacity to contract a valid
 25 marriage.

26 Sec. 50. Section 598.29, subsection 4, Code 2023, is amended
 27 to read as follows:

28 4. Where either party was a ~~ward~~ protected person under a
 29 guardianship and was found by the court to lack the capacity
 30 to contract a valid marriage.

31 Sec. 51. Section 633.3, subsections 9, 17, 22, and 23, Code
 32 2023, are amended to read as follows:

33 9. "Conservator" means a person appointed by the court
 34 to have the custody and control of the property of a ~~ward~~
 35 protected person under the provisions of this probate code.

1 17. “*Estate*” means the real and personal property of either
2 a decedent or a ward protected person, and may also refer to
3 the real and personal property of a trust described in section
4 633.10.

5 22. “*Guardian*” means the person appointed by the court to
6 have the custody of the person of the ward protected person
7 under the provisions of this probate code.

8 23. “*Guardian of the property*” — at the election of the
9 person appointed by the court to have the custody and care of
10 the property of a ward protected person, the term “*guardian of*
11 *the property*” may be used, which term shall be synonymous with
12 the term “*conservator*”.

13 Sec. 52. Section 633.78, subsection 1, unnumbered paragraph
14 1, Code 2023, is amended to read as follows:

15 A fiduciary under this chapter may present a written request
16 to any person for the purpose of obtaining property owned by
17 a decedent or by a ward protected person of a conservatorship
18 for which the fiduciary has been appointed, or property to
19 which a decedent or ward protected person is entitled, or
20 for information about such property needed to perform the
21 fiduciary’s duties. The request must contain statements
22 confirming all of the following:

23 Sec. 53. Section 633.78, subsection 1, paragraph b, Code
24 2023, is amended to read as follows:

25 **b.** The request has been signed by all fiduciaries acting on
26 behalf of the decedent or ward protected person.

27 Sec. 54. Section 633.78, subsection 4, paragraph a, Code
28 2023, is amended to read as follows:

29 **a.** Damages sustained by the decedent’s or ward’s protected
30 person’s estate.

31 Sec. 55. Section 633.80, Code 2023, is amended to read as
32 follows:

33 **633.80 Fiduciary of a fiduciary.**

34 A fiduciary has no authority to act in a matter wherein the
35 fiduciary’s decedent or ward protected person was merely a

1 fiduciary, except that the fiduciary shall file a report and
2 accounting on behalf of the decedent or ~~ward~~ protected person
3 in said matter.

4 Sec. 56. Section 633.93, Code 2023, is amended to read as
5 follows:

6 **633.93 Limitation on actions affecting deeds.**

7 No action for recovery of any real estate sold by any
8 fiduciary can be maintained by any person claiming under the
9 deceased, the ~~ward~~ protected person, or a beneficiary, unless
10 brought within five years after the date of the recording of
11 the conveyance.

12 Sec. 57. Section 633.112, Code 2023, is amended to read as
13 follows:

14 **633.112 Discovery of property.**

15 The court may require any person suspected of having
16 possession of any property, including records and documents,
17 of the decedent, ~~ward~~ protected person, or the estate, or of
18 having had such property under the person's control, to appear
19 and submit to an examination under oath touching such matters,
20 and if on such examination it appears that the person has the
21 wrongful possession of any such property, the court may order
22 the delivery thereof to the fiduciary. Such a person shall be
23 liable to the estate for all damages caused by the person's
24 acts.

25 Sec. 58. Section 633.123, subsection 1, paragraph b,
26 subparagraph (3), Code 2023, is amended to read as follows:

27 (3) The needs and rights of the beneficiaries or the ~~ward~~
28 protected person.

29 Sec. 59. Section 633.580, subsections 1 and 4, Code 2023,
30 are amended to read as follows:

31 1. The name, age, and last known post office address of the
32 proposed ~~ward~~ protected person.

33 4. A general description of the property of the proposed
34 ~~ward~~ protected person within this state and of the proposed
35 ~~ward's~~ protected person's right to receive property; also, the

1 estimated present value of the real estate, the estimated value
 2 of the personal property, and the estimated gross annual income
 3 of the estate. If any money is payable, or to become payable,
 4 to the proposed ~~ward~~ protected person by the United States
 5 through the United States department of veterans affairs, the
 6 petition shall so state.

7 Sec. 60. Section 633.591A, Code 2023, is amended to read as
 8 follows:

9 **633.591A Voluntary petition for appointment of conservator**
 10 **for a minor — standby basis.**

11 A person having physical and legal custody of a minor
 12 may execute a verified petition for the appointment of a
 13 standby conservator of the proposed ~~ward's~~ protected person's
 14 property, upon the express condition that the petition shall
 15 be acted upon by the court only upon the occurrence of an event
 16 specified or the existence of a described condition of the
 17 mental or physical health of the petitioner, the occurrence
 18 of which event, or the existence of which condition, shall be
 19 established in the manner directed in the petition.

20 Sec. 61. Section 633.603, Code 2023, is amended to read as
 21 follows:

22 **633.603 Appointment of foreign conservators.**

23 When there is no conservatorship, nor any application
 24 therefor pending, in this state, the duly qualified foreign
 25 conservator or guardian of a nonresident ~~ward~~ protected
 26 person may, upon application, be appointed conservator of the
 27 property of such person in this state; provided that a resident
 28 conservator is appointed to serve with the foreign conservator;
 29 and provided further, that for good cause shown, the court
 30 may appoint the foreign conservator to act alone without the
 31 appointment of a resident conservator.

32 Sec. 62. Section 633.604, Code 2023, is amended to read as
 33 follows:

34 **633.604 Application.**

35 The application for appointment of a foreign conservator

1 or guardian as conservator in this state shall include the
2 name and address of the nonresident ~~ward~~ protected person, and
3 of the nonresident conservator or guardian, and the name and
4 address of the resident conservator to be appointed. It shall
5 be accompanied by a certified copy of the original letters
6 or other authority conferring the power upon the foreign
7 conservator or guardian to act as such. The application
8 shall also state the cause for the appointment of the foreign
9 conservator to act as sole conservator, if such be the case.

10 Sec. 63. Section 633.605, Code 2023, is amended to read as
11 follows:

12 **633.605 Personal property.**

13 A foreign conservator or guardian of a nonresident may
14 be authorized by the court of the county wherein such ~~ward~~
15 protected person has personal property to receive the same upon
16 compliance with the provisions of [sections 633.606, 633.607](#) and
17 633.608.

18 Sec. 64. Section 633.607, Code 2023, is amended to read as
19 follows:

20 **633.607 Order for delivery.**

21 Upon the filing of the bond as above provided, and the court
22 being satisfied with the amount thereof, it shall order the
23 personal property of the ~~ward~~ protected person delivered to
24 such conservator or guardian.

25 Sec. 65. Section 633.633, Code 2023, is amended to read as
26 follows:

27 **633.633 Provisions applicable to all fiduciaries shall**
28 **govern.**

29 The provisions of this probate code applicable to all
30 fiduciaries shall govern the appointment, qualification, oath
31 and bond of guardians and conservators, except that a guardian
32 shall not be required to give bond unless the court, for good
33 cause, finds that the best interests of the ~~ward~~ protected
34 person require a bond. The court shall then fix the terms and
35 conditions of such bond.

1 Sec. 66. Section 633.633B, Code 2023, is amended to read as
2 follows:

3 **633.633B Tort liability of guardians and conservators.**

4 The fact that a person is a guardian or conservator shall not
5 in itself make the person personally liable for damages for the
6 acts of the ~~ward~~ protected person.

7 Sec. 67. Section 633.636, Code 2023, is amended to read as
8 follows:

9 **633.636 Effect of appointment of guardian or conservator.**

10 The appointment of a guardian or conservator shall not
11 constitute an adjudication that the ~~ward~~ protected person is of
12 unsound mind.

13 Sec. 68. Section 633.637, Code 2023, is amended to read as
14 follows:

15 **633.637 Powers of ~~ward~~ protected person.**

16 1. A ~~ward~~ protected person for whom a conservator has been
17 appointed shall not have the power to convey, encumber, or
18 dispose of property in any manner, other than by will if the
19 ~~ward~~ protected person possesses the requisite testamentary
20 capacity, unless the court determines that the ~~ward~~ protected
21 person has a limited ability to handle the ~~ward's~~ protected
22 person's own funds. If the court makes such a finding, the
23 court shall specify to what extent the ~~ward~~ protected person
24 may possess and use the ~~ward's~~ protected person's own funds.

25 2. Any modification of the powers of the ~~ward~~ protected
26 person that would be more restrictive of the ~~ward's~~ protected
27 person's control over the ~~ward's~~ protected person's financial
28 affairs shall be based upon clear and convincing evidence
29 and the burden of persuasion is on the conservator. Any
30 modification that would be less restrictive of the ~~ward's~~
31 protected person's control over the ~~ward's~~ protected person's
32 financial affairs shall be based upon proof in accordance with
33 the requirements of [section 633.675](#).

34 Sec. 69. Section 633.637A, Code 2023, is amended to read as
35 follows:

1 **633.637A Rights of ward protected person under guardianship.**

2 An adult ward protected person under a guardianship has the
 3 right of communication, visitation, or interaction with other
 4 persons upon the consent of the adult ward protected person,
 5 subject to [section 633.635, subsection 2](#), paragraph "i", and
 6 section 633.635, subsection 3, paragraph "c". If an adult ward
 7 protected person is unable to give express consent to such
 8 communication, visitation, or interaction with a person due
 9 to a physical or mental condition, consent of an adult ward
 10 protected person may be presumed by a guardian or a court based
 11 on an adult ward's protected person's prior relationship with
 12 such person.

13 Sec. 70. Section 633.638, Code 2023, is amended to read as
 14 follows:

15 **633.638 Presumption of fraud.**

16 If a conservator be appointed, all contracts, transfers and
 17 gifts made by the ward protected person after the filing of the
 18 petition shall be presumed to be a fraud against the rights
 19 and interest of the ward protected person except as otherwise
 20 directed by the court pursuant to [section 633.637](#).

21 Sec. 71. Section 633.639, Code 2023, is amended to read as
 22 follows:

23 **633.639 Title to ward's protected person's property.**

24 The title to all property of the ward protected person is
 25 in the ward protected person and not the conservator subject,
 26 however, to the possession of the conservator and to the
 27 control of the court for the purposes of administration,
 28 sale or other disposition, under the provisions of the
 29 law. Any real property titled at any time in the name of a
 30 conservatorship shall be deemed to be titled in the ward's
 31 protected person's name subject to the conservator's right of
 32 possession.

33 Sec. 72. Section 633.640, Code 2023, is amended to read as
 34 follows:

35 **633.640 Conservator's right to possession.**

1 Every conservator shall have a right to, and shall take,
2 possession of all of the real and personal property of the
3 ~~ward~~ protected person. The conservator shall pay the taxes
4 and collect the income therefrom until the conservatorship is
5 terminated. The conservator may maintain an action for the
6 possession of the property, and to determine the title to the
7 same.

8 Sec. 73. Section 633.643, Code 2023, is amended to read as
9 follows:

10 **633.643 Disposal of will by conservator.**

11 When an instrument purporting to be the will of the ~~ward~~
12 protected person comes into the hands of a conservator, the
13 conservator shall immediately deliver it to the court.

14 Sec. 74. Section 633.644, Code 2023, is amended to read as
15 follows:

16 **633.644 Court order to preserve testamentary intent of ~~ward~~**
17 **protected person.**

18 Upon receiving an instrument purporting to be the will of a
19 living ~~ward~~ protected person under the provisions of section
20 633.643, the court may open said will and read it. The court
21 with or without notice, as it may determine, may enter such
22 orders in the conservatorship as it deems advisable for the
23 proper administration of the conservatorship in light of the
24 expressed testamentary intent of the ~~ward~~ protected person.

25 Sec. 75. Section 633.645, Code 2023, is amended to read as
26 follows:

27 **633.645 Court to deliver will to clerk.**

28 An instrument purporting to be the will of a ~~ward~~ protected
29 person coming into the hands of the court under the provisions
30 of [section 633.643](#), shall thereafter be resealed by the court
31 and be deposited with the clerk to be held by said clerk as
32 provided in [sections 633.286 through 633.289](#).

33 Sec. 76. Section 633.653A, Code 2023, is amended to read as
34 follows:

35 **633.653A Claims for cost of medical care or services.**

1 The provision of medical care or services to a ~~ward~~ protected
2 person who is a recipient of medical assistance under chapter
3 249A creates a claim against the conservatorship for the amount
4 owed to the provider under the medical assistance program for
5 the care or services. The amount of the claim, after being
6 allowed or established as provided in this part, shall be paid
7 by the conservator from the assets of the conservatorship.

8 Sec. 77. Section 633.654, Code 2023, is amended to read as
9 follows:

10 **633.654 Form and verification of claims — general**
11 **requirements.**

12 No claim shall be allowed against the estate of a ~~ward~~
13 protected person upon application of the claimant unless
14 it shall be in writing, filed in duplicate with the clerk,
15 stating the claimant's name and address, and describing the
16 nature and the amount thereof, if ascertainable. It shall be
17 accompanied by the affidavit of the claimant, or of someone for
18 the claimant, that the amount is justly due, or if not due,
19 when it will or may become due, that no payments have been
20 made thereon which are not credited, and that there are no
21 offsets to the same, to the knowledge of the affiant, except as
22 therein stated. The duplicate of said claim shall be mailed
23 by the clerk to the conservator or the conservator's attorney
24 of record; however, valid contract claims arising in the
25 ordinary course of the conduct of the business or affairs of
26 the ~~ward~~ protected person by the conservator may be paid by the
27 conservator without requiring affidavit or filing.

28 Sec. 78. Section 633.656, Code 2023, is amended to read as
29 follows:

30 **633.656 How claim entitled.**

31 All claims filed against the estate of the ~~ward~~ protected
32 person shall be entitled in the name of the claimant against
33 the conservator as such, naming the conservator, and in all
34 further proceedings thereon, this title shall be preserved.

35 Sec. 79. Section 633.660, Code 2023, is amended to read as

1 follows:

2 **633.660 Execution and levy prohibited.**

3 No execution shall issue upon, nor shall any levy be made
4 against, any property of the estate of a ward protected person
5 under any judgment against the ward protected person or a
6 conservator, but the provisions of this section shall not be so
7 construed as to prevent the enforcement of a mortgage, pledge,
8 or other lien upon property in an appropriate proceeding.

9 Sec. 80. Section 633.661, Code 2023, is amended to read as
10 follows:

11 **633.661 Claims of conservators.**

12 If the conservator is a creditor of the ward protected
13 person, the conservator shall file the claim as other
14 creditors, and the court shall appoint some competent person as
15 temporary conservator to represent the ward protected person
16 at the hearing on the conservator's claim. The same procedure
17 shall be followed in the case of coconservators where all
18 such conservators are creditors of the ward protected person;
19 but if one of the coconservators is not a creditor of the
20 ward protected person, such disinterested conservator shall
21 represent the ward protected person at the hearing on any claim
22 against the ward protected person by a coconservator.

23 Sec. 81. Section 633.662, Code 2023, is amended to read as
24 follows:

25 **633.662 Claims not filed.**

26 The conservator may pay any valid claim against the estate of
27 the ward protected person even though such claim has not been
28 filed, but all such payments made by the conservator shall be
29 at the conservator's own peril.

30 Sec. 82. Section 633.664, Code 2023, is amended to read as
31 follows:

32 **633.664 Liens not affected by failure to file claim.**

33 Nothing in sections 633.654 and 633.658 shall affect or
34 prevent an action or proceeding to enforce any mortgage,
35 pledge, or other lien upon the property of the ward protected

1 person.

2 Sec. 83. Section 633.665, Code 2023, is amended to read as
3 follows:

4 **633.665 Separate actions and claims.**

5 1. Any action pending against the ~~ward~~ protected person at
6 the time the conservator is appointed shall also be considered
7 a claim filed in the conservatorship if notice of substitution
8 is served on the conservator as defendant and a duplicate of
9 the proof of service of notice of such proceeding is filed in
10 the conservatorship proceeding.

11 2. A separate action based on a debt or other liability
12 of the ~~ward~~ protected person may be commenced against the
13 conservator in lieu of filing a claim in the conservatorship.
14 Such an action shall be commenced by serving an original notice
15 on the conservator and filing a duplicate of the proof of
16 service of notice of such proceeding in the conservatorship
17 proceeding. Such an action shall also be considered a claim
18 filed in the conservatorship. Such an action may be commenced
19 only in a county where the venue would have been proper if
20 there were no conservatorship and the action had been commenced
21 against the ~~ward~~ protected person.

22 Sec. 84. Section 633.667, Code 2023, is amended to read as
23 follows:

24 **633.667 Payment of claims in insolvent conservatorships.**

25 When it appears that the assets in a conservatorship are
26 insufficient to pay in full all the claims against such
27 conservatorship, the conservator shall report such matter to
28 the court, and the court shall, upon hearing, with notice to
29 all persons who have filed claims in the conservatorship, make
30 an order for the pro rata payment of claims giving claimants
31 the same priority, if any, as they would have if the ~~ward~~
32 protected person were not under conservatorship.

33 Sec. 85. Section 633.668, Code 2023, is amended to read as
34 follows:

35 **633.668 Conservator may make gifts.**

1 For good cause shown and under order of court, a conservator
2 may make gifts on behalf of the ~~ward~~ protected person out of
3 the assets under a conservatorship to persons or religious,
4 educational, scientific, charitable, or other nonprofit
5 organizations to whom or to which such gifts were regularly
6 made prior to the commencement of the conservatorship, or on
7 a showing to the court that such gifts would benefit the ~~ward~~
8 protected person or the ~~ward's~~ protected person's estate from
9 the standpoint of income, gift, estate or inheritance taxes.
10 The making of gifts out of the assets must not foreseeably
11 impair the ability to provide adequately for the best interests
12 of the ~~ward~~ protected person.

13 Sec. 86. Section 633.671, subsections 5 and 6, Code 2023,
14 are amended to read as follows:

15 5. The residence or physical location of the ~~ward~~ protected
16 person.

17 6. The general physical and mental condition of the ~~ward~~
18 protected person.

19 Sec. 87. Section 633.673, Code 2023, is amended to read as
20 follows:

21 **633.673 Court costs in guardianships.**

22 The ~~ward~~ protected person or the ~~ward's~~ protected person's
23 estate shall be charged with the court costs of a ~~ward's~~
24 protected person's guardianship, including the guardian's fees
25 and the fees of the attorney for the guardian. The court
26 may, upon application, enter an order waiving payment of the
27 court costs in indigent cases. However, if the ~~ward~~ protected
28 person or ~~ward's~~ protected person's estate becomes financially
29 capable of paying any waived costs, the costs shall be paid
30 immediately.

31 Sec. 88. Section 633.676, Code 2023, is amended to read as
32 follows:

33 **633.676 Assets exhausted.**

34 At any time that the assets of the ~~ward's~~ protected person's
35 estate do not exceed the amount of the charges and claims

1 against it, the court may direct the conservator to proceed to
2 terminate the conservatorship.

3 Sec. 89. Section 633.677, Code 2023, is amended to read as
4 follows:

5 **633.677 Accounting to ward protected person — notice.**

6 Upon the termination of a conservatorship, the conservator
7 shall pay the costs of administration and shall render a full
8 and complete accounting to the ward protected person or the
9 ward's protected person's personal representative and to the
10 court. Notice of the final report of a conservator shall be
11 served on the ward protected person or the ward's protected
12 person's personal representative, in accordance with section
13 633.40, unless notice is waived. An order prescribing notice
14 may be made before or after the filing of the final report.

15 Sec. 90. Section 633.682, Code 2023, is amended to read as
16 follows:

17 **633.682 Discharge of conservator and release of bond.**

18 Upon settlement of the final accounting of a conservator,
19 and upon determining that the property of the ward protected
20 person has been delivered to the person or persons lawfully
21 entitled thereto, the court shall discharge the conservator and
22 exonerate the surety on the conservator's bond.

23 Sec. 91. Section 636.23, subsection 13, Code 2023, is
24 amended to read as follows:

25 13. *Life, endowment or annuity contracts of legal reserve*
26 *life insurance companies authorized to do business in Iowa.* The
27 purchase of contracts authorized by [this subsection](#) shall be
28 limited to executors or the successors to their powers when
29 specifically authorized by will, and to guardians and trustees,
30 in an amount not to exceed twenty-five percent of the value
31 of the ward's protected person's property in possession of
32 the fiduciary. Such contract may be issued on the life or
33 lives of a ward protected person or wards protected persons or
34 beneficiary or beneficiaries of a trust fund created by will or
35 trust agreement, or upon the life or lives of persons in whose

1 life or lives such ~~ward~~ protected person or beneficiary has an
2 insurable interest. The proceeds or avails of such contract
3 shall be the sole property of the person or persons whose funds
4 are invested therein.

5 Sec. 92. Section 638.2, subsections 5, 15, and 27, Code
6 2023, are amended to read as follows:

7 5. "*Conservator*" means the same as defined in [section 633.3](#).
8 "*Conservator*" includes a person appointed to have the custody
9 and control of the property of a ~~ward~~ protected person in a
10 limited conservatorship unless otherwise provided by order of
11 the court.

12 15. "*Guardian*" means the same as defined in [section 633.3](#).
13 "*Guardian*" includes a person appointed to have the custody and
14 care of the person of the ~~ward~~ protected person in a limited
15 guardianship unless otherwise provided by order of the court.

16 27. "~~Ward~~" "Protected person" means an individual for whom a
17 conservator or guardian has been appointed. "~~Ward~~" "Protected
18 person" includes an individual for whom an application for the
19 appointment of a conservator or guardian is pending and for
20 which a court order authorizing access under [this chapter](#) has
21 been granted.

22 Sec. 93. Section 638.3, subsection 1, paragraph c, Code
23 2023, is amended to read as follows:

24 c. A conservator or guardian acting for a ~~ward~~ protected
25 person on or after July 1, 2017.

26 Sec. 94. Section 638.14, Code 2023, is amended to read as
27 follows:

28 **638.14 Disclosure of digital assets to conservator or**
29 **guardian of a ~~ward~~ protected person.**

30 1. After an opportunity for a hearing to all interested
31 parties, the court may grant a conservator or guardian access
32 to the digital assets of a ~~ward~~ protected person.

33 2. Unless otherwise ordered by the court or directed by the
34 user, a custodian shall disclose to a conservator or guardian
35 the catalogue of electronic communications sent or received

1 by a ~~ward~~ protected person and any digital assets, other than
2 the content of electronic communications, in which the ~~ward~~
3 protected person has a right or interest if the conservator or
4 guardian gives the custodian all of the following:

5 a. A written request for disclosure in physical or
6 electronic form.

7 b. A file-stamped copy of the court order that gives the
8 conservator or guardian authority over the digital assets of
9 the ~~ward~~ protected person.

10 c. If requested by the custodian, any of the following:

11 (1) A number, username, address, or other unique subscriber
12 or account identifier assigned by the custodian to identify the
13 account of the ~~ward~~ protected person.

14 (2) Evidence linking the account to the ~~ward~~ protected
15 person.

16 3. If the conservatorship or guardianship is not limited,
17 the conservator or guardian may request a custodian of the
18 digital assets of the ~~ward~~ protected person to suspend or
19 terminate an account of the ~~ward~~ protected person for good
20 cause. A request made under [this section](#) must be accompanied
21 by a file-stamped copy of the court order establishing the
22 conservatorship or guardianship.

23 Sec. 95. Section 638.15, subsections 3, 4, and 5, Code 2023,
24 are amended to read as follows:

25 3. A fiduciary with authority over the property of a
26 decedent, ~~ward~~ protected person, principal, or settlor has
27 the right to access any digital asset in which the decedent,
28 ~~ward~~ protected person, principal, or settlor had a right or
29 interest and that is not held by a custodian or subject to a
30 terms-of-service agreement.

31 4. A fiduciary acting within the scope of the fiduciary's
32 duties is an authorized user of the property of the decedent,
33 ~~ward~~ protected person, principal, or settlor for the purpose
34 of applicable computer-fraud and unauthorized-computer-access
35 laws, including [section 716.6B](#).

1 5. A fiduciary with authority over the tangible, personal
2 property of a decedent, ~~ward~~ protected person, principal, or
3 settlor possesses all of the following authority:

4 a. Has the right to access the property and any digital
5 asset stored in the property.

6 *b.* Is an authorized user for the purpose of computer-fraud
7 and unauthorized-computer-access laws, including section
8 716.6B.

9 Sec. 96. Section 692A.113, subsection 2, paragraph b, Code
10 2023, is amended to read as follows:

b. Who is the parent or legal guardian of a minor shall not be in violation of subsection 1 solely during the period of time reasonably necessary to transport the offender's own minor child or ~~ward~~ protected person to or from a place specified in subsection 1.

16 Sec. 97. Section 692A.114, subsection 3, paragraph f, Code
17 2023, is amended to read as follows:

18 f. The sex offender is a ~~ward~~ protected person in a
19 guardianship, and a district judge or associate probate judge
20 grants an exemption from the residency restriction.

21 Sec. 98. Section 726.5, subsection 1, Code 2023, is amended
22 to read as follows:

23 1. a. A person, who being able to do so, fails or refuses
24 to provide support for the person's child or ~~ward~~ protected
25 person under the age of eighteen years for a period longer than
26 one year or in an amount greater than five thousand dollars
27 commits the offense of nonsupport.

b. A person shall not be held to have violated [this section](#) if the person fails to support any child or ~~ward~~ protected person under the age of eighteen who has left the home of the parent or other person having legal custody of the child or ~~ward~~ protected person without the consent of that parent or person having legal custody of the child or ~~ward~~ protected person.

EXPLANATION

1 The inclusion of this explanation does not constitute agreement with
2 the explanation's substance by the members of the general assembly.

3 This bill concerns the creation, administration,
4 and termination of adult and minor guardianships and
5 conservatorships.

6 The bill provides that the juvenile court has exclusive
7 jurisdiction in proceedings for appointment of a guardian for a
8 minor and concerning the guardianship of a minor.

9 The bill requires that, in addition to stating why a limited
10 guardianship is appropriate, a petition for guardianship of
11 a minor must also state whether a conservatorship for the
12 minor is already in place. If a minor's known parents have
13 not consented to the appointment of a guardian, the notice of
14 the filing of a guardianship petition shall inform the known
15 parents that they are entitled to representation if they meet
16 the conditions in Code section 232D.304.

17 The bill allows the court to appoint a court visitor for
18 the minor in a minor guardianship proceeding. A court visitor
19 is discharged from further duties upon an appointment of a
20 guardian or conservator unless the court determines that
21 continued service of the court visitor would be in the best
22 interest of the minor or protected person, in which case the
23 court may limit the direct duties as necessary.

24 The bill allows a hearing on a petition for guardianship of a
25 minor to be recorded if a court reporter is not used.

26 The bill provides that the court may order an extension of a
27 temporary guardianship or conservatorship for 30 days for good
28 cause shown. A guardian or conservator shall file either prior
29 to or along with the application for an extension of time a
30 report with the court providing all the actions conducted on
31 behalf of the minor or protected person and all future actions
32 the guardian or conservator plans to conduct on behalf of the
33 minor or protected person during the extension period.

34 The bill requires a temporary guardian to submit any report
35 required by the court. The bill provides that a court order

1 appointing a guardian for a minor shall state powers granted
2 to the guardian until the guardian files the initial care plan
3 and the plan is approved by the court. The bill strikes a
4 reference to "without prior court approval" in a Code section
5 listing powers a court may grant to a guardian. The bill also
6 directs that the initial care plan must include the guardian's
7 plan for applying for and receiving funds and benefits for the
8 support of the minor.

9 The bill requires the clerk of court to, twice per year,
10 notify any fiduciary or fiduciary's attorney of delinquent
11 plans or reports in any pending minor guardianship. If the
12 plan or report is not filed within 60 days, the clerk must
13 notify the presiding judge and the fiduciary will be subject to
14 removal. The bill also requires the clerk of court to, twice
15 per year, report to the presiding judge all delinquent plans
16 and reports.

17 The bill alters certain requirements of a petition for
18 appointment of guardian or conservator for an adult, and
19 provides that the hearing on a petition may be recorded if a
20 court reporter is not used.

21 The bill allows a district court conducting checks of the
22 dependent adult abuse registry for all proposed guardians
23 and conservators to have access to dependent adult abuse
24 information other than unfounded dependent adult abuse
25 information. Under the bill, a court need not perform a
26 background check on a proposed guardian or conservator if the
27 person provides a background check from the past 12 months to
28 the court.

29 The bill provides that an order appointing a conservator
30 shall state the basis for the conservatorship, and upon
31 appointment, the conservator may exercise the powers relating
32 to all fiduciaries, unless expressly modified by the court,
33 without prior court approval. These powers include but are
34 not limited to the following: making written requests for the
35 purpose of obtaining the property of the protected person,

1 or obtaining information about the property of the protected
2 person; designating and employing an attorney to assist in
3 the administration of the estate of the protected person;
4 holding investments in the name of a bank or trustee company;
5 and requiring a bank to show ownership of investments held in
6 nominee name and keep them separate from the assets of the
7 bank. The bill further provides that until the conservator
8 files and the court approves an initial financial management
9 plan, the conservator may exercise the following powers without
10 court approval except as otherwise ordered by the court:
11 collect, receive, and receipt for any principal or income of
12 the protected person; receive property of the protected person
13 from any source; and continue to hold any investment or other
14 property of the protected person. The bill also provides that
15 upon the conservator filing the appropriate oath, the clerk of
16 court shall issue letters of appointment attached to the order
17 granting or limiting powers of the conservator.

18 The bill changes the information required to be contained
19 in a guardian's written verified reports including the initial
20 care plan and annual reports, and information required to be
21 included in reports by conservators including the initial
22 financial management plan, an inventory of the protected
23 person's assets and debts, the annual report, and the final
24 report.

25 The bill replaces reporting requirements for guardians, and
26 requires that guardians must obtain court approval prior to any
27 significant deviation from the initial care plan filed with the
28 court.

29 The bill modifies reporting requirements for conservators.
30 The conservator must give notice of filing a plan, and if no
31 objection is made within 20 days, the conservator must submit
32 a proposed order to the court approving the initial plan. If
33 there are objections to the plan, the court must set the matter
34 for hearing.

35 The bill makes conforming changes throughout the Code by

1 changing the term "ward" to "protected person".